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May 16, 2005

RECEIVED

MAY 16 2005

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, SW, Room 8B201
Washington, DC 20554Federal Communications Commission
Office of Secretary

Re: Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in
the Omaha Metropolitan Statistical Area
WC Docket No. 04-223
Notice of Oral Ex Parte Communications

Dear Ms. Dortch:

I am writing this letter to report that on May 13, 2005, Alexandra Wilson, Vice President, Public Policy, of Cox Enterprises, Inc., acting on behalf of Cox Communications Inc. ("Cox"), and I met with Jeremy Miller, Deputy Chief, Competition Policy Division, Wireline Competition Bureau, and Division staff members Ian Dillner and Erin Boone regarding issues raised in the above-captioned proceeding. We discussed Cox's continuing opposition to Qwest's Petition in the above-captioned proceeding. In particular, Cox pointed out Qwest's failure to demonstrate that competition would continue to develop if Qwest were relieved from the current incumbent LEC regulations that apply to it in the Omaha Metropolitan Statistical Area. Cox also highlighted all Omaha carriers' ongoing need for nondiscriminatory interconnection with Qwest and explained why continued enforcement of the Commission's interconnection rules will be critical to the continued success of facilities-based competitors like Cox.

In the course of the meeting, Cox distributed a summary of its presentation, which contained information for which Cox seeks confidential treatment pursuant to the *Protective Order* issued in this proceeding. The confidential information is contained on pages 12 and 13 of the attached summary and is marked "REDACTED." The confidential portions of Cox's written presentation are being filed today with the Secretary's Office under a separate cover.

In accordance with Section 1.1206 of the Commission's rules, an original and one copy of this letter are being filed with the Secretary's Office on this date and copies of this letter are being provided to the Commission participants.

No. of Copies
Listed Above

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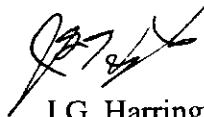
Marlene H. Dortch, Esq.

May 16, 2005

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Please inform me if any questions should arise in connection with this letter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J.G. Harrington', with a stylized flourish at the end.

J.G. Harrington

Counsel to Cox Communications, Inc.

Attachment

cc (w/o attachment): Jeremy Miller
Ian Dillner
Erin Boone



Qwest Omaha Forbearance Petition

CC Docket No. 04-223

May 13, 2005

Redacted for Public Distribution

Overview

- Key Issues in Commission's Analysis
- Specific Interconnection Requirements
- Market Data

About Cox

- 3rd-largest cable operator, with 6.3 million cable subscribers
- 12th-largest local exchange carrier, with 1.4 million customers
 - Won J.D. Power award for Local Residential Telephone Customer Satisfaction in the western region in 2003 and 2004
- Facilities-based carrier in all markets
 - Consistent with Commission goal to “encourage the innovation and investment that comes from facilities-based competition” (Triennial Review Remand Order, ¶ 2)

Issues in Commission Analysis

- The focus should be on Section 10 standards in light of the relief requested by Qwest
 - Enforcement not necessary to ensure reasonable charges and no discrimination; **and**
 - Enforcement not necessary “for the protection of consumers;” **and**
 - Forbearance is consistent with the public interest
- Each requirement must be met
- Showings must be tied to the relief requested

Retail Markets Have Little Relevance to Wholesale Interconnection

- Retail market share is better suited to non-dominance analysis for retail regulation
 - Nebraska and Iowa already have taken steps
 - May be appropriate for analysis of access in this case
- Little connection to Section 251 and 271 requirements in this case
- Broadband forbearance decision is not on point

Appropriate Analytic Model

- Consider whether there are substitutes for the functionalities required to be provided under Section 251(c) and Section 271
 - If not, then competition and consumer welfare depend on maintaining requirements
 - Recent UNE decisions provide basis for this analysis
- Public interest analysis must be informed by purpose of 1996 Act to promote competition and by Commission conclusion to favor facilities-based competition
- Should not grant forbearance unless justified over entire area where Qwest requests it

Additional Considerations

- The full compliance requirement of Section 10 must be honored
 - Qwest must make a showing that it has fully complied **before** the Commission can reach any other question
 - This provision demonstrates that Congress expects a different kind of showing for Section 251 forbearance than for other forbearance
- The incompleteness and inaccuracy of Qwest's filings require that the petition be denied

Cox Interconnection Needs

- Interconnection, including transiting
 - Cox seeks symmetrical and reciprocal arrangements
 - Each party bears reasonable share of costs
 - No economic alternative to Qwest exists, despite Cox efforts
 - Eliminating would create incentives for leveraging by Qwest

Interconnection Needs (cont'd)

- Unbundled mass market loops
 - Used on a limited basis where Cox facilities do not reach
 - No evidence to overturn recent FCC findings of impairment
- Collocation
 - Permits CLEC to interconnect using its own facilities, which is economically efficient
 - Used by Cox in Omaha

Interconnection Needs (cont'd)

- Negotiation in good faith
 - Basic obligation
 - Affects everything else
- Network change notification
 - Ensures that calls can be completed
 - Qwest can disproportionately affect other carriers if it refuses to provide this information
 - More critical as shift to IP begins

Market Data

- Service Areas
 - Cox serves parts of Sarpy and Douglas Counties in Nebraska, and parts of Pottawattamie County in Iowa
 - Approximately 2/3 of land area of these counties
 - Qwest serves all of each of the counties where Cox provides service and parts of Harrison and Mills Counties in Iowa
 - Cox serves 18 of Qwest's 24 wire centers
 - No service in Springfield, Glenwood-Mineola, Malvern, Missouri Valley, Neola and Underwood
 - Qwest assertion that Cox serves Glenwood-Mineola and Missouri Valley is incorrect

Market Data

- Buildout
 - Cox covers in excess of 90 percent of the residential locations in its service area
 - Cox does not have access to between 8,000 and 9,000 multiple tenant environment buildings
 - Cox covers approximately *[Redacted]* percent of business locations in its service area
 - Coverage maps will be provided

Market Data

- Access lines
 - Residential: *[Redacted]* access lines
 - Business: *[Redacted]* voice grade equivalents
 - Cox does not keep data on access lines
 - Number of access lines is significantly smaller because this number includes T-1s and PRIs, converted into an equivalent number of POTS lines